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7 COLBY TUNICK,

Plaintiff,

v.

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10 TAKARA SAKE USA INC.,

Defendant.

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12 Case No. 23-cv-00572-TSH

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**DISCOVERY ORDER**

Re: Dkt. No. 42

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28 We are here on Plaintiff's motion to compel for the 12 topics he noticed in his Rule  
30(b)(6) deposition notice. ECF No. 42. The Court's view is that litigants can generally choose  
which form of discovery they want to use, but like any general principle, there are some limits.  
And this deposition notice is something else.

Take a look at topic 1:

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**Identification of Products.** *The identification of all Products sold in  
the United States during the Relevant Period by:* (a) name and  
description sufficiently specific to identify and differentiate each  
Product (**name**); (b) all unique identifiers, such as a companywide  
and department specific internal control numbers (e.g., codes used to  
track products, labels, formulations, inventory, and/or sales),  
Universal Product Code ("UPC"), and Stock Keeping Unit ("SKU")  
(**unique identifiers**); (c) size (**size**); (d) variations including flavor,  
type of sake, or type of packaging (**variation**); (e) dates when each  
Product was first manufactured, first advertised, first sold, last  
manufactured, last advertised, last sold, and any intermittent removals  
from the market at any point (**dates**); (f) any and all past, current, or  
future plans to discontinue the ingredients, manufacture, advertising,  
labels/packaging, or sale of the Product, including all underlying  
reasons (**discontinue**); and (g) bates number for Documents that  
provide the foregoing information (**key documents**).

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28 The defined term "Product" includes at least 10 product lines. The Court does not see how  
any deponent could memorize all that information. Rule 30(b)(6) witnesses sometimes bring

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Northern District of California

1 materials with them to the deposition to help with their memory. But to prepare a witness on topic  
2 1, the Defendant would have to draft what would effectively be an enormous interrogatory  
3 response and then send a witness into the deposition to read it into the record. It is impossible to  
4 understand why it would be a good idea to use a deposition to get this level of detail about product  
5 information. The witness would not likely have any information beyond what it is written in the  
6 document he brings with him to the deposition. The other deposition topics all suffer from the  
7 same problem. Requesting this level of extreme detail by way of a deposition notice is an undue  
8 burden. This is what interrogatories are for.

9 Defendant argues that several of these topics seek irrelevant information. The Court  
10 declines to address that argument. These topics as drafted are completely unsuitable for a Rule  
11 30(b)(6) deposition, and that is sufficient to resolve the current dispute. Plaintiff's motion to  
12 compel is **DENIED**.

13 **IT IS SO ORDERED.**

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15 Dated: March 22, 2024

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17 THOMAS S. HIXSON  
18 United States Magistrate Judge

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